

FILED VIA ECF

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X	
FELICITAS DEL CARMEN VILLANUEVA	:
GARNICA	:
Plaintiff,	:
	:
- against -	:
	:
MALU CUSTER EDWARDS aka MALU	:
HURLEY and MICHAEL HURLEY aka	:
MICKY HURLEY	:
Defendants.	:
-----X	

Index No. 13-Civ-3943

ANSWER

Defendants Malu Custer Edwards and Michael Hurley (“Defendants”), by their attorneys Becker, Glynn, Muffly, Chassin & Hosinski LLP, for their Answer to the complaint filed by Felicitas del Carmen Villanueva Garnica (“Plaintiff”), dated June 7, 2013 (the “Complaint”), avers as set forth below:

1. Defendants deny the allegations set forth in paragraph 1 of the Complaint.
2. Defendants deny the allegations set forth in paragraph 2 of the Complaint.
3. Defendants state that the allegations set forth in paragraph 3 of the Complaint purport to state a legal conclusion to which no response is required.
4. Defendants state that the allegations set forth in paragraph 4 of the Complaint purport to state a legal conclusion to which no response is required.
5. Defendants state that the allegations set forth in paragraph 5 of the Complaint purport to state a legal conclusion to which no response is required.

6. Defendants lack information sufficient to form a belief as to the truth or falsity of the allegations set forth in paragraph 6 of the Complaint.

7. Defendants deny the allegations set forth in paragraph 7 of the Complaint, except they admit that Malu Custer Edwards (“Edwards”) is twenty-nine years of age and a citizen of the Republic of Chile.

8. Defendants deny the allegations set forth in paragraph 8 of the Complaint.

9. Defendants deny the allegations set forth in paragraph 9 of the Complaint, except they admit that Hurley is a citizen of the Republic of Chile.

10. Defendants deny the allegations set forth in paragraph 10 of the Complaint.

11. Defendants admit the allegations set forth in paragraph 11 of the Complaint.

12. Defendants deny the allegations set forth in paragraph 12 of the Complaint.

13. Defendants state that the allegations set forth in paragraph 13 of the Complaint purport to state a legal conclusion to which no response is required. Defendants lack information sufficient to form a belief as to the truth or falsity of the statement set forth in paragraph 13 of the Complaint, but to the extent that statement contains any factual allegations, Defendants deny those allegations.

14. Defendants lack information sufficient to form a belief as to the truth or falsity of the statement set forth in paragraph 14 of the Complaint, but to the extent that statement contains any factual allegations, Defendants deny those allegations.

15. Defendants lack information sufficient to form a belief as to the truth or falsity of the allegations set forth in paragraph 15 of the Complaint.

16. Defendants lack information sufficient to form a belief as to the truth or falsity of the allegations set forth in paragraph 16 of the Complaint.

17. Defendants lack information sufficient to form a belief as to the truth or falsity of the allegations set forth in paragraph 17 of the Complaint.

18. Defendants deny the allegations set forth in paragraph 18 of the Complaint.

19. Defendants deny the allegations set forth in paragraph 19 of the Complaint.

20. Defendants deny the allegations set forth in paragraph 20 of the Complaint, except they admit that Edwards is a descendant of Agustín Edwards McClure, whose biography is a matter of public record and speaks for itself.

21. Defendants deny the allegations set forth in paragraph 21 of the Complaint.

22. Defendants deny the allegations set forth in paragraph 22 of the Complaint, except they admit that Hurley owns Hurley & Company.

23. Defendants deny the allegations set forth in paragraph 23 of the Complaint.

24. Defendants deny the allegations set forth in paragraph 24 of the Complaint and refer the Court to New York Magazine's Winter Travel Guide 2012 for its contents. To the

extent that the allegations set forth in paragraph 24 of the Complaint purport to characterize the contents of that publication, Defendants deny them.

25. Defendants lack information sufficient to form a belief as to the truth or falsity of the allegations set forth in paragraph 25 of the Complaint.

26. Defendants lack information sufficient to form a belief as to the truth or falsity of the allegations set forth in paragraph 26 of the Complaint.

27. Defendants lack information sufficient to form a belief as to the truth or falsity of the allegations set forth in paragraph 27 of the Complaint.

28. Defendants deny the allegations set forth in paragraph 28 of the Complaint, except they admit that their children Rex, Malu and Olympia were aged seven, five and three, respectively, at the time of the events alleged in the Complaint.

29. Defendants deny the allegations set forth in paragraph 29 of the Complaint, except they admit that Plaintiff began working for them in early December 2010.

30. Defendants deny the allegations set forth in paragraph 30 of the Complaint.

31. Defendants admit the allegations set forth in paragraph 31 of the Complaint.

32. Defendants deny the allegations set forth in paragraph 32 of the Complaint.

33. Defendants deny the allegations set forth in paragraph 33 of the Complaint.

34. Defendants deny the allegations set forth in paragraph 34 of the Complaint.

35. Defendants deny the allegations set forth in paragraph 35 of the Complaint.

36. Defendants deny the allegations set forth in paragraph 36 of the Complaint.

37. Defendants deny the allegations set forth in paragraph 37 of the Complaint.

38. Defendants deny the allegations set forth in paragraph 38 of the Complaint.

39. Defendants deny the allegations set forth in paragraph 39 of the Complaint.

40. Defendants deny the allegations set forth in paragraph 40 of the Complaint.

41. Defendants deny the allegations set forth in paragraph 41 of the Complaint, except state that the allegations concerning Chilean law purport to state a legal conclusion as to which no response is required.

42. Defendants deny the allegations set forth in paragraph 42 of the Complaint.

43. Defendants deny the allegations set forth in paragraph 43 of the Complaint.

44. Defendants admit the allegations set forth in paragraph 44 of the Complaint.

45. Defendants deny the allegations set forth in paragraph 45 of the Complaint.

46. Defendants deny the allegations set forth in paragraph 46 of the Complaint.

47. Defendants admit the allegations set forth in paragraph 47 of the Complaint.

48. Defendants lack information sufficient to form a belief as to the truth or falsity of the allegations set forth in paragraph 48 of the Complaint.

49. Defendants lack information sufficient to form a belief as to the truth or falsity of the allegations set forth in paragraph 49 of the Complaint.

50. Defendants deny the allegations set forth in paragraph 50 of the Complaint.

51. Defendants deny the allegations set forth in paragraph 51 of the Complaint.

52. Defendants deny the allegations set forth in paragraph 52 of the Complaint.

53. Defendants deny the allegations set forth in paragraph 53 of the Complaint.

54. Defendants deny the allegations set forth in paragraph 54 of the Complaint.

55. Defendants admit the allegations set forth in paragraph 55 of the Complaint.

56. Defendants deny the allegations set forth in paragraph 56 of the Complaint, but they admit that Plaintiff travelled from Chile to Peru with them on or about January 13, 2011.

57. Defendants deny the allegations set forth in paragraph 57 of the Complaint.

58. Defendants deny the allegations set forth in paragraph 58 of the Complaint, except they admit that Plaintiff continued to work for them in January 2011 while they were in Peru.

59. Defendants admit the allegations set forth in paragraph 59 of the Complaint.

60. Defendants deny the allegations set forth in paragraph 60 of the Complaint.

61. Defendants deny the allegations set forth in paragraph 61 of the Complaint.

62. Defendants deny the allegations set forth in paragraph 62 of the Complaint.

63. Defendants deny the allegations set forth in paragraph 63 of the Complaint.

64. Defendants deny the allegations set forth in paragraph 64 of the Complaint.

65. Defendants deny the allegations set forth in paragraph 65 of the Complaint.

66. Defendants deny the allegations set forth in paragraph 66 of the Complaint.

67. Defendants deny the allegations set forth in paragraph 67 of the Complaint.

68. Defendants admit the allegations set forth in paragraph 68 of the Complaint.

69. Defendants deny the allegations set forth in paragraph 69 of the Complaint.

70. Defendants deny the allegations set forth in paragraph 70 of the Complaint.

71. Defendants deny the allegations set forth in paragraph 71 of the Complaint.

72. Defendants deny the allegations set forth in paragraph 72 of the Complaint.

73. Defendants deny the allegations set forth in paragraph 73 of the Complaint.

74. Defendants deny the allegations set forth in paragraph 74 of the Complaint.

75. Defendants deny the allegations set forth in paragraph 75 of the Complaint.

76. Defendants deny the allegations set forth in paragraph 76 of the Complaint, except they admit that Edwards on one occasion told Plaintiff that the children were adjusting to a new home.

77. Defendants deny the allegations set forth in paragraph 77 of the Complaint.

78. Defendants deny the allegations set forth in paragraph 78 of the Complaint.

79. Defendants deny the allegations set forth in paragraph 79 of the Complaint.

80. Defendants deny the allegations set forth in paragraph 80 of the Complaint.

81. Defendants deny the allegations set forth in paragraph 81 of the Complaint.

82. Defendants deny the allegations set forth in paragraph 82 of the Complaint.

83. Defendants deny the allegations set forth in paragraph 83 of the Complaint.

84. Defendants deny the allegations set forth in paragraph 84 of the Complaint.

85. Defendants deny the allegations set forth in paragraph 85 of the Complaint.

86. Defendants deny the allegations set forth in paragraph 86 of the Complaint.

87. Defendants deny the allegations set forth in paragraph 87 of the Complaint.

88. Defendants deny the allegations set forth in paragraph 88 of the Complaint.

89. Defendants deny the allegations set forth in paragraph 89 of the Complaint.

90. Defendants deny the allegations set forth in paragraph 90 of the Complaint.

91. Defendants deny the allegations set forth in paragraph 91 of the Complaint.

92. Defendants deny the allegations set forth in paragraph 92 of the Complaint.

93. Defendants deny the allegations set forth in paragraph 93 of the Complaint.

94. Defendants deny the allegations set forth in paragraph 94 of the Complaint.

95. Defendants deny the allegations set forth in paragraph 95 of the Complaint.

96. Defendants deny the allegations set forth in paragraph 96 of the Complaint.

97. Defendants deny the allegations set forth in paragraph 97 of the Complaint.

98. Defendants deny the allegations set forth in paragraph 98 of the Complaint.

99. Defendants deny the allegations set forth in paragraph 99 of the Complaint.

100. Defendants deny the allegations set forth in paragraph 100 of the Complaint.

101. Defendants deny the allegations set forth in paragraph 101 of the Complaint.

102. Defendants deny the allegations set forth in paragraph 102 of the Complaint, except admit that Plaintiff was not provided health insurance or a prescription reimbursement plan.

103. Defendants deny the allegations set forth in paragraph 103 of the Complaint.

104. Defendants deny the allegations set forth in paragraph 104 of the Complaint.

105. Defendants deny the allegations set forth in paragraph 105 of the Complaint.

106. Defendants deny the allegations set forth in paragraph 106 of the Complaint.

107. Defendants lack information sufficient to form a belief as to the truth or falsity of the allegations set forth in paragraph 107 of the Complaint.

108. Defendants lack information sufficient to form a belief as to the truth of falsity of whether and when Plaintiff's alleged symptoms began presenting themselves. Defendants otherwise deny the allegations set forth in paragraph 108 of the Complaint, except admit that Plaintiff told Edwards that she needed a prescription refilled.

109. Defendants deny the allegations set forth in paragraph 109 of the Complaint.

110. Defendants deny the allegations set forth in paragraph 110 of the Complaint, except admit that Edwards offered to attempt to obtain a prescription for Plaintiff from Chile.

111. Defendants lack information sufficient to form a belief as to the truth or falsity of the allegations set forth in paragraph 111 of the Complaint.

112. Defendants deny the allegations set forth in paragraph 112 of the Complaint.

113. Defendants deny the allegations set forth in paragraph 113 of the Complaint.

114. Defendants deny the allegations set forth in paragraph 114 of the Complaint, except Defendants lack information sufficient to form a belief as to the truth or falsity of the allegations concerning Plaintiff's thoughts and intentions set forth in paragraph 114 of the Complaint.

115. Defendants deny the allegations set forth in paragraph 115 of the Complaint.

116. Defendants deny the allegations set forth in paragraph 116 of the Complaint.

117. Defendants deny the allegations set forth in paragraph 117 of the Complaint.

118. Defendants deny the allegations set forth in paragraph 118 of the Complaint.

119. Defendants deny the allegations set forth in paragraph 119 of the Complaint.

120. Defendants deny the allegations set forth in paragraph 120 of the Complaint.

121. Defendants deny the allegations set forth in paragraph 121 of the Complaint.

122. Defendants deny the allegations set forth in paragraph 122 of the Complaint.

123. Defendants deny the allegations set forth in paragraph 123 of the Complaint.

124. Defendants deny the allegations set forth in paragraph 124 of the Complaint.

125. Defendants deny the allegations set forth in paragraph 125 of the Complaint.

126. Defendants deny the allegation set forth in paragraph 126 of the Complaint.

127. Defendants deny the allegations set forth in paragraph 127 of the Complaint.

128. Defendants deny the allegations set forth in paragraph 128 of the Complaint.

129. Defendants deny the allegations set forth in paragraph 129 of the Complaint.

130. Defendants deny the allegations set forth in paragraph 130 of the Complaint.

131. Defendants deny the allegations set forth in paragraph 131 of the Complaint.

132. Defendants deny the allegations set forth in paragraph 132 of the Complaint.

133. Defendants deny the allegations set forth in paragraph 133 of the Complaint.

134. Defendants deny the allegations set forth in paragraph 134 of the Complaint.

135. Defendants deny the allegations set forth in paragraph 135 of the Complaint.

136. Defendants deny the allegations set forth in paragraph 136 of the Complaint.

137. Defendants deny the allegations set forth in paragraph 137 of the Complaint.

138. Defendants deny the allegations set forth in paragraph 138 of the Complaint.

139. Defendants lack information sufficient to form a belief as to the truth or falsity of the allegations set forth in paragraph 139 of the Complaint.

140. Defendants lack information sufficient to form a belief as to the truth or falsity of the allegations set forth in paragraph 140 of the Complaint, but they deny the allegation that Plaintiff was abused or mistreated in any way.

141. Defendants lack information sufficient to form a belief as to the truth or falsity of the allegations set forth in paragraph 141 of the Complaint.

142. Defendants lack information sufficient to form a belief as to the truth or falsity of the allegations set forth in paragraph 142 of the Complaint, but they deny the allegation that Plaintiff was abused or mistreated in any way or that they engaged in any illegal conduct.

143. Defendants deny the allegations set forth in paragraph 143 of the Complaint.

144. Defendants deny the allegations set forth in paragraph 144 of the Complaint.

145. Defendants deny the allegations set forth in paragraph 145 of the Complaint.

146. Defendants deny the allegations set forth in paragraph 146 of the Complaint.

147. Defendants deny the allegations set forth in paragraph 147 of the Complaint.

148. Defendants deny the allegations set forth in paragraph 148 of the Complaint.

149. Defendants lack information sufficient to form a belief as to the truth or falsity of the allegations set forth in paragraph 149 of the Complaint.

150. Defendants lack information sufficient to form a belief as to the truth or falsity of the allegations set forth in paragraph 150 of the Complaint, but deny the allegation that they were abusive to Plaintiff or mistreated her.

151. Defendants lack information sufficient to form a belief as to the truth or falsity of the allegations set forth in paragraph 151 of the Complaint.

152. Defendants deny the allegations set forth in paragraph 152 of the Complaint, but admit that Plaintiff left their home on or about March 14, 2011, without many of her belongings.

153. Defendants lack information sufficient to form a belief as to the truth or falsity of the allegations set forth in paragraph 153 of the Complaint.

154. Defendants lack information sufficient to form a belief as to the truth or falsity of the allegations set forth in paragraph 154 of the Complaint, but deny the allegations concerning their children.

155. Defendants lack information sufficient to form a belief as to the truth or falsity of the allegations set forth in paragraph 155 of the Complaint.

156. Defendants lack information sufficient to form a belief as to the truth or falsity of the allegations set forth in paragraph 156 of the Complaint.

157. Defendants lack information sufficient to form a belief as to the truth or falsity of the allegations set forth in paragraph 157 of the Complaint.

158. Defendants lack information sufficient to form a belief as to the truth or falsity of the allegations set forth in paragraph 158 of the Complaint.

159. Defendants lack information sufficient to form a belief as to the truth or falsity of the allegations set forth in paragraph 159 of the Complaint.

160. Defendants lack information sufficient to form a belief as to the truth or falsity of the allegations set forth in paragraph 160 of the Complaint, but deny the allegations concerning their children.

161. Defendants lack information sufficient to form a belief as to the truth or falsity of the allegations set forth in paragraph 161 of the Complaint.

162. Defendants lack information sufficient to form a belief as to the truth or falsity of the allegations set forth in paragraph 162 of the Complaint.

163. Defendants deny the allegations set forth in paragraph 163 of the Complaint, except admit that Plaintiff petitioned the New York State Department of Labor for wages, and that Defendants made a payment for certain wages.

First Claim for Relief
(Trafficking- 18 U.S.C. § 1595)

A. Authority For Civil Action

164. In answer to the allegations set forth in paragraphs 1 through 163 of the Complaint, Defendants reassert the answers set forth in paragraphs 1 through 163 above.

165. Defendants deny the allegations set forth in paragraph 165 of the Complaint.

166. Defendants deny the allegations set forth in paragraph 166 of the Complaint.

167. Defendants deny the allegations set forth in paragraph 167 of the Complaint.

168. Defendants deny the allegations set forth in paragraph 168 of the Complaint.

B. Forced Labor (18 U.S.C. § 1589)

169. In answer to the allegations set forth in paragraphs 1 through 168 of the Complaint, Defendants reassert the answers set forth in paragraphs 1 through 168 above.

170. Defendants deny the allegations set forth in paragraph 170 of the Complaint.

171. Defendants deny the allegations set forth in paragraph 171 of the Complaint.

172. Defendants deny the allegations set forth in paragraph 172 of the Complaint.

C. Trafficking with Respect to Peonage, Slavery, Involuntary Servitude, or Forced Labor (18 U.S.C. § 1590)

173. In answer to the allegations set forth in paragraphs 1 through 172 of the Complaint, Defendants reassert the answers set forth in paragraphs 1 through 172 above.

174. Defendants deny the allegations set forth in paragraph 174 of the Complaint.

175. Defendants state that the allegations set forth in paragraph 175 of the Complaint purport to state a legal conclusion to which no response is required, but deny that Plaintiff was a victim of trafficking.

176. Defendants deny the allegations set forth in paragraph 176 of the Complaint.

D. Unlawful Conduct with Respect to Documents in Furtherance of Trafficking, Peonage, Slavery, Involuntary Servitude, or Forced Labor (18 U.S.C. § 1592)

177. In answer to the allegations set forth in paragraphs 1 through 176 of the Complaint, Defendants reassert the answers set forth in paragraphs 1 through 176 above.

178. Defendants deny the allegations set forth in paragraph 178 of the Complaint.

179. Defendants deny the allegations set forth in paragraph 179 of the Complaint.

E. Attempt to Violate 18 U.S.C. §§ 1589 and 1590 (18 U.S.C. § 1594(a))

180. In answer to the allegations set forth in paragraphs 1 through 179 of the Complaint, Defendants reassert the answers set forth in paragraphs 1 through 179 above.

181. Defendants deny the allegations set forth in paragraph 181 of the Complaint.

182. Defendants deny the allegations set forth in paragraph 182 of the Complaint.

F. Conspiracy to Violate 18 U.S.C. §§ 1589, 1590, and 1592 (18 U.S.C. § 1594(b))

183. In answer to the allegations set forth in paragraphs 1 through 183 of the Complaint, Defendants reassert the answers set forth in paragraphs 1 through 183 above.

184. Defendants deny the allegations set forth in paragraph 184 of the Complaint.

185. Defendants deny the allegations set forth in paragraph 185 of the Complaint.

186. Defendants deny the allegations set forth in paragraph 186 of the Complaint.

G. Alternatively, Trafficking with Respect to Peonage, Slavery, Involuntary Servitude, or Forced Labor by Violating 18 U.S.C. §§ 1589 (2003), 1592 (2003, and 1594(a) (2003) (18 U.S.C. § 1590 (2003))

187. In answer to the allegations set forth in paragraphs 1 through 187 of the Complaint, Defendants reassert the answers set forth in paragraphs 1 through 187 above.

188. Defendants deny the allegations set forth in paragraph 188 of the Complaint.

189. Defendants deny the allegations set forth in paragraph 189 of the Complaint.

Second Claim for Relief
(Breach of Contract)

190. In answer to the allegations set forth in paragraphs 1 through 189 of the Complaint, Defendants reassert the answers set forth in paragraphs 1 through 189 above.

191. Defendants admit the allegation set forth in paragraph 191 of the Complaint.

192. Defendants deny the allegations set forth in paragraph 192 of the Complaint.

193. Defendants deny the allegations set forth in paragraph 193 of the Complaint.

194. Defendants deny the allegations set forth in paragraph 194 of the Complaint.

Third Claim for Relief
(Negligent Infliction of Emotional Distress)

195. In answer to the allegations set forth in paragraphs 1 through 194 of the Complaint, Defendants reassert the answers set forth in paragraphs 1 through 194 above.

196. Defendants state that the allegations set forth in paragraph 196 of the Complaint purport to state a legal conclusion to which no response is required, but to the extent that a response is deemed required, they deny the allegations set forth in this paragraph.

197. Defendants deny the allegations set forth in paragraph 197 of the Complaint.

198. Defendants deny the allegations set forth in paragraph 198 of the Complaint.

199. Defendants deny the allegations set forth in paragraph 199 of the Complaint.

200. Defendants deny the allegations set forth in paragraph 200 of the Complaint.

201. Defendants deny the allegations set forth in paragraph 201 of the Complaint.

Fourth Claim for Relief
(Fraudulent Misrepresentation)

202. In answer to the allegations set forth in paragraphs 1 through 201 of the Complaint, Defendants reassert the answers set forth in paragraphs 1 through 201 above.

203. Defendants state that the allegations set forth in paragraph 203 of the Complaint purport to state a legal conclusion to which no response is required, but to the extent that a response is deemed required, they deny the allegations set forth in this paragraph.

204. Defendants deny the allegations set forth in paragraph 204 of the Complaint.

205. Defendants deny the allegations set forth in paragraph 205 of the Complaint.

206. Defendants deny the allegations set forth in paragraph 206 of the Complaint.

207. Defendants deny the allegations set forth in paragraph 207 of the Complaint.

208. Defendants deny the allegations set forth in paragraph 208 of the Complaint.

PRAYER FOR RELIEF

No response is required to the final un-numbered paragraphs of the Complaint, which describe Plaintiff's prayer for relief and request for judgment. To the extent a response is deemed required, Defendants deny that the relief requested is either warranted or proper, and further deny that Plaintiff is entitled to any relief of any kind.

GENERAL DEFENSE

Defendants deny any and all allegations in the Complaint not expressly admitted herein, deny that Plaintiff is entitled to any relief, and deny that the relief requested by Plaintiff in the Complaint is warranted or proper.

AFFIRMATIVE DEFENSES

First Affirmative Defense

Plaintiff fails to state a claim on which relief may be granted.

Second Affirmative Defense

Plaintiff's claims are barred because granting the relief requested would result in unjust enrichment to Plaintiff.

Third Affirmative Defense

Plaintiff's claims are barred by the doctrine of estoppel.

Fourth Affirmative Defense

Plaintiff's claims are barred by the doctrine of mitigation of damages.

Fifth Affirmative Defense

Plaintiff's claims are barred by the doctrine of unclean hands.

Sixth Affirmative Defense

Plaintiff's claim for negligent infliction of emotional distress is barred by New York State's Workers' Compensation Law.

Seventh Affirmative Defense

Plaintiff's contract claim is barred by the Statute of Frauds.

Eighth Affirmative Defense

Plaintiff's claims are barred by the doctrine of waiver.

Ninth Affirmative Defense

Plaintiff's claims are barred because any alleged injuries were the result of unrelated, pre-existing, or subsequent conditions unrelated to the conduct of Defendants or their children.

Dated: New York, New York
August 7, 2013

Respectfully submitted,

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